

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF RHODE ISLAND

UNITED STATES OF AMERICA

v.

CR No. 03-108-01T

GERALD TAYLOR

**ORDER DENYING PETITIONER'S MOTION FOR MODIFICATION
OF SENTENCE PURSUANT TO 18 U.S.C. §3582(c)**

On February 13, 2004, Gerald Taylor pled guilty to a charge of possessing a firearm after having been convicted of a felony in violation of 21 U.S.C. §922(g)(1). Taylor's guideline range was determined to be 77 to 96 months based on a net offense level of 21 and a criminal history category of VI. Taylor was sentenced to 77 months.

Taylor has filed a motion to reduce his sentence, pursuant to 18 U.S.C. §3582(c), on the ground that, under Amendment 709 to the guidelines adopted November 1, 2007, he would have a lesser criminal history category which, in turn, would result in a lower guideline range.


Unfortunately for Taylor, Amendment 709 is not listed in U.S.S.G. §1B1.10 as one of the amendments having retroactive effect. Consequently, the amendment is not retroactively applicable to Taylor's case. See e.g. United States v. Cabrera-Polo, 376 F.3d 29, 33 (1st Cir. 2003).

For all of the foregoing reasons, the Motion to Modify Sentence is hereby denied.

By Order


Deputy Clerk

ENTER:


Ernest C. Torres
Senior U.S. District Judge

Date: Jan. 22, 2009